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WILLIAM T. WALSH  
CLERK

IN THE UNITED STATES DISTRICT COURT  
OF NEW JERSEY

OTICON, INC.,

Plaintiff,

v.

VIVATONE HEARING SYSTEMS, LLC

and

SEBOTEK HEARING SYSTEMS, LLC

Defendants.

Civil Action No. 3:08-cv-05489 FLW

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**FIRST AMENDED PRETRIAL SCHEDULING ORDER**

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This matter having come before the Court during a telephone conference on May 12, 2009, and the parties having agreed to an extension of future deadlines;

It is on this 22<sup>nd</sup> day of May, 2009,

ORDERED THAT:

The following numbered paragraphs in the original Pretrial Scheduling Order are replaced with the dates reflected hereinbelow:

8. In accordance with L.Pat.R. 4.2, on July 27, 2009, the parties shall simultaneously exchange preliminary proposed constructions of each term identified by any party for claim construction. At that time, each party shall also identify in the manner set forth in L.Pat.R. 4.2(b) all references from the specification or prosecution history that support its preliminary proposed construction and designate any supporting extrinsic evidence, including, without limitation, dictionary definitions, citations to learned treatises and prior art and testimony of all witnesses including expert witnesses.

9. By August 28, 2009, the parties shall complete and file a Joint Claim Construction and Prehearing Statement, which shall contain the information set forth in L.Pat.R. 4.3.

10. By September 28, 2009, the parties shall complete all discovery relating to claim construction, including any depositions with respect to claim construction of any witnesses, other than experts, identified in the Preliminary Claim Construction Statement (L.Pat.R. 4.2) or Joint Claim Construction and Prehearing Statement (L.Pat.R. 4.3).

11. In accordance with L.Pat.R. 4.5(a), by October 13, 2009, the parties shall contemporaneously file and serve their opening *Markman* briefs and any evidence supporting claim construction, including experts' certifications or declarations.

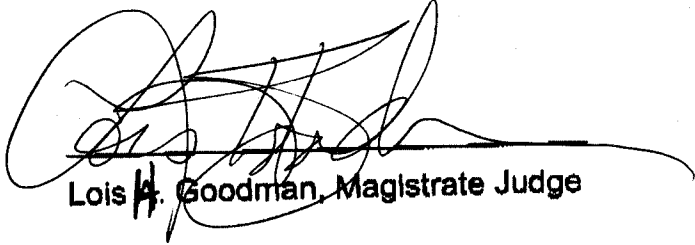
12. In accordance with L.Pat.R. 4.5(b), by November 11, 2009, any discovery from an expert witness who submitted a certification or declaration under L.Pat.R. 4.5(a) shall be concluded.

13. In accordance with L.Pat.R. 4.5(c), by December 14, 2009, the parties shall contemporaneously file and serve responding *Markman* briefs and any evidence supporting claim construction, including any responding experts' certifications or declarations.

14. As set forth in L.Pat.R. 4.6, by December 28, 2009, counsel shall confer and propose to the Court a schedule for a Claim Construction Hearing.

The terms of the remaining paragraphs of the original Pretrial Scheduling Order shall remain in effect.

Dated: May 22, 2009

  
Lois A. Goodman, Magistrate Judge